

E.M. v. Nebraska Dept. of Health & Human Servs.

Caselaw No.

S-18-1145 through S-18-1148

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Summary: This case relies on judicial interpretation of the Young Adult Bridge to Independence Act (YABI). YABI created the Bridge to Independence program (B2I), an extended-foster care program available to young adults who are at least 19 years old, who were adjudicated to be a juvenile under Neb. Rev. Stat. § 43-247(3)(a), who satisfies the education/work requirement, who is a Nebraska resident, and who does not meet the level of care for a nursing facility. The issue in this case is whether YABI's language sufficiently made several noncitizen applicants eligible for all public benefits of the B2I.

E.M. and two other young adults (applicants) are Guatemalan citizens who fled to Nebraska as minors. Each was adjudicated to by the juvenile court under Neb. Rev. Stat. § 43-247(3)(a) and placed in foster care. Each applicant applied to Nebraska DHHS for B2I, and even though each applicant had already received special immigrant juvenile (SIJ) status, DHHS denied each of the applicants for failing to meet the ?citizenship/lawful presence requirements.?

The applicants appealed DHHS's decision to the district court for Lancaster County, and their petitions were joined for review. The district court affirmed DHHS's denial for B2I, and the applicants again appealed. The Nebraska Supreme Court granted the applicants' petition to bypass the Court of Appeals.

In this appeal, the applicants argued that the district court erred in (1) determining that citizenship or immigration status is relevant to eligibility for B2I; (2) affirming DHHS' determination that because each applicant was not a citizen or qualified noncitizen, he was not eligible; and (3) failing to strike down the eligibility regulation on the basis that it violated the separation of powers clause in the Nebraska Constitution.

This is a statutory interpretation case. The Court had to determine whether the applicants were eligible for B2I. To do so, the Court first determined whether the federal and state statutory limitations on providing state public benefits to noncitizens apply to YABI.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) declared that a noncitizen who is not a (1) qualified immigrant, (2) a non-immigrant under the INA, or (3) a noncitizen paroled in the United States under the INA for less than 1 year, is not eligible for any state or local public benefit. The applicants are not listed under PRWORA as qualified to receive those benefits. However, PRWORA creates an exception allowing states to extend state and local public benefits to immigrants not lawfully present in the U.S. if the state law ?affirmatively provides for such eligibility.? L.B. 403 (the Nebraska equivalent of PRWORA) provides that ?notwithstanding any other provision of the law?no state agency of political subdivision of the State of Nebraska shall provide public benefits to a person not lawfully present in the United States.?

Because L.B. 403 and PRWORA had been enacted years before YABI, the Court assumed that the legislature enacted YABI with full knowledge that L.B. 403 and PRWORA limited public benefits to citizens and “lawfully present” immigrants and required it to “affirmatively provide” for eligibility in order to extend public benefits to immigrants not lawfully present in the U.S.

In this analysis, the Court first determined that the applicants were not “lawfully present” under the PRWORA. The Court held that because they did not fall within one of the categories specifically enumerated by the PRWORA, the applicants were not “lawfully present” in the United States for purposes of L.B. 403.

Because the applicants were not “lawfully present,” they could only receive state public benefits if YABI “affirmatively provides” for their eligibility. The Court reasoned that to “affirmatively provide” means to include one universal “not lawfully present” status or to expressly reference PRWORA. Using this definition, the Court held that YABI does not “affirmatively provide” for immigrants not lawfully present in the U.S. The federal statute (i.e., PRWORA) requires a positive or express statement to include these immigrants for eligibility, but YABI is silent on the issue. Reading YABI to “affirmatively provide” for immigrants not lawfully present in the U.S through this silent omission would conflict with the federal statute. Under the Supremacy Clause of the U.S. Constitution, state laws are invalid to the extent they conflict with federal law. Thus, under PRWORA, legislative silence cannot qualify as a positive or express statement.

The Court applied the same reasoning to the applicants’ argument that the inclusion of a case management service that assists participants in applying for SIJ status provides evidence of legislative intent to provide benefits to immigrants not lawfully present in the U.S. According to the Court, this provision describes a service, not an eligible recipient. Because there is no positive or express statement using words which describe individuals, rather than services, YABI cannot be read to create an exception for immigrants not lawfully present in the U.S.

Finally, the Court rejected the applicants’ argument that DHHS violated the Nebraska Constitution by improperly adding a B2I eligibility requirement not provided in YABI. The Court viewed the DHHS regulation as a codification of the PRWORA limitation of federal law rather than a violation of the separation of powers clause.

The Nebraska Supreme Court affirmed the district court’s judgment. Because applicants were not “lawfully present” and the legislature did not “affirmatively provide” for their eligibility under YABI, the applicants were ineligible for B2I.
